

APPROVED: Meeting No. 38-82

ATTEST:

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
MEETING NO. 36-82

September 20, 1982

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, September 20, 1982, at 8:00 p.m.

PRESENT

Mayor pro-tem Steve Abrams  
Councilman Douglas Duncan  
Councilwoman Viola Hovsepian  
Councilman John Tyner, II

ABSENT

Mayor John R. Freeland  
(on travel leave)

The Mayor pro-tem in the Chair.

In attendance: City Manager Larry Blick; City Clerk Helen Heneghan; City Attorney Paul Glasgow; Director of Community Development Douglas Horne; Director of Planning James M. Davis; Chief of Police Jared Stout; Assistant City Manager Daniel Hobbs; Director of Recreation and Park Ron Olson.

Re: City Manager's Report

Mr. Blick reported the following:

1. The issues questionnaire has been mailed to school board candidates and is to be returned by October 8.
2. The ballots for the nuclear referendum were delivered to the Post Office on Friday. The resolution should reach the voters by Wednesday.
3. The recording machine which will contain information on Mayor and Council actions as well as issues scheduled for upcoming meetings has been received. The C&P Company will be installing a new outside line for it and plans are to have it operational and publicized in ten days.
4. It is anticipated that Gude Drive, from Rt. 355 to Piccard Drive, will be opened to traffic by October 15.

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Re: Proclamation - "Drama Week"  
September 24 - October 2, 1982

Proclamation No. 6-82

There being no objection from the Council, Mayor pro-tem Abrams proceeded to issue Proclamation No. 6-82 proclaiming the week of September 24 to October 2, 1982, as Drama Week in the City of Rockville. Councilman Duncan read the proclamation at the request of the Mayor in which it was urged that citizens participate in and support the efforts of all organizations in the City which contribute to the community through the medium of the stage.

Members of Rockville Little Theatre, present in the audience, accepted the proclamation on behalf of the theatre group and presented tickets to the forthcoming productions to the Mayor and Council.

Re: Proclamation - "Roller  
Skating Week" - September 29 -  
October 5, 1982

Proclamation No. 7-82

There being no objection from the Council, Mayor pro-tem Abrams proceeded to issue Proclamation No. 7-82 proclaiming the week of September 26 to October 5, 1982, as Roller Skating Week in the City of Rockville. Councilman Tyner read the proclamation at the request of Mr. Abrams and accepted it on behalf of the roller skating rinks in the City.

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. Jo Ann Mazzetta, re Council meetings and Crossways program
2. Senator Mathias, re grant from UMTA for van
3. In-B-Tweeners re thank you for Grandparent's Day celebration

Re: Information Items

1. Energy Consumption Report

Councilman Tyner noted this excellent report and complimented the Chairman on its submission and noted the applications of energy conservation to City Hall and the City vehicles. He mentioned the City Manager will be looking into the idea of a motor pool that will keep stricter controls on vehicles and save money. Mr. Tyner asked that Mr. Hobbs bring back to the Council some material on the emergency generator that was deleted from the City Hall improvement plans. He said outages have caused several problems with phones, computers and police communications at one time or another and it might be a good time to look into this again. Councilwoman Hovsepian noted that the costs were down at the swim center but they remained the same as Red Gate and she asked why this is. The City Manager said he will bring back those answers.

2. Status Report on Montgomery College Parking Study

Councilman Tyner asked if there was any input from the surrounding community. Mr. Davis explained that the College is doing the study for the Planning Commission and it will then be given to the neighborhood.

3. Annual Report on Rockville's Participation in Self-Insurance Program

4. Copy of letter of complaint to Recreation Department

5. Memo re Highland Avenue unpaving

6. Memo re Performing Arts Subscription Series

Councilwoman Hovsepian asked that the Friends of the Arts appointments please move forward quickly. Councilman Tyner noted they would move faster if names could be given to the City Clerk by the Council.

7. Letter from City Manager to CAO re reuse of schools

Councilman Duncan asked if the City Manager had any information on the reuse of the Hungerford Park School. The City Manager said not at this time but he will look into it.

Re: Citizen's Forum

The Mayor pro-tem opened the meeting to those citizens who wished to address the Mayor and Council:

1. Howard Silberstein, 2008 Dundee Road. Mr. Silberstein told the Council that at this time the City of Rockville has no housing policy except in the form of a staff report. He suggested that the City should have one. He noted that the process of the RTH Townhouse Development does not include a unified city approach to development and the Mayor and Council might want to look at innovative strategies and lay them out in a housing policy. He requested that any future townhouse development be stopped until a housing policy is adopted by the Mayor and Council since it could find all the desirable land used. Councilman Tyner said he does not know what is innovative except for subsidized housing. Mr. Silberstein suggested that the City adopt the MPDU Policy just as the County has. Councilwoman Hovsepian agreed that the City should move forward with its housing policy. Mayor pro tem Abrams pointed out that new construction costs are what raises prices. The real hope as it exists is the recycling of existing buildings. The last Council attempted changes such as multiple uses in existing housing but the public hearing on those uses was unfavorable. Councilwoman Hovsepian suggested that a housing policy should also address temporary shelters for people whether combined with the County or Rockville's own. Mr. Silberstein added that the \$100,000 in the City's emergency fund could be used for shelter.

2. John Brewer, 100 N. Van Buren Street. Mr. Brewer said he had recently reviewed the Falls Road material and in looking at the size of the sidewalks he feels that the street trees are an impediment to pedestrian ways. Greater separation is needed between vehicular and pedestrian traffic and the Planning Department might want to relook into the tree situation. The Council agreed to do this.

There being no other citizen wishing to be heard, Mayor pro tem Abrams closed the Citizen's Forum portion of the meeting.

Re: Award of Contract: Bid No.  
13-82, Street Tree Replacement

Bids were opened in the Boards and Commissions Room at 11:00 a.m., on September 13, 1982, for furnishing and planting shrubs and trees on City rights-of-way.

Thirteen acceptable bids were received and are listed below. Angelica Nurseries submitted a bid but did not furnish a bid bond or check, and Davis Nurseries' bid arrived late for the opening.

Potomac Valley Nurseries Inc., Gaithersburg, Maryland	\$14,870.00
Greenbrier Farms Landscaping, Inc., Chesapeake, Virginia	15,143.00
Cheap Eddies Nursery, Rockville, Maryland	15,641.00
Aspen Landscape Contractors, Inc., Silver Spring, Maryland	17,204.00
Stock Nursery, Rockville, Maryland	18,260.50
M.D.G. Inc., Baltimore, Maryland	19,633.00
Botts Landscape Service, Inc., Jarrettsville, Maryland	20,230.00
Lion Landscaping, Gaithersburg, Maryland	21,630.91
Commercial Lawn & Landscaping, Rockville, Maryland	21,910.00
Waynesboro Nurseries, Inc., Waynesboro, Virginia	23,056.00
Glenwood Gardens, Glenwood, Maryland	23,295.96
Ruppert Landscaping Co., Inc., Ashton, Maryland	26,108.00
Oaklawn Development Corp., Hyattsville, Maryland	29,798.00

This contract is to provide 183 trees on public right-of-way as replacements for those taken down due to disease or other problems, and to continue filling areas vacant of trees. The amount budgeted for FY 83 was 250 trees at \$110 each, totaling \$27,500. The Parks Division will continue its practice of biannual plantings with the remaining 67 tree replacements to come in the spring of 1983. Potomac Valley Nurseries has been awarded the previous two tree replacement contracts and has provided satisfactory material and service. Staff recommends that Bid No. 13-83 be awarded to Potomac Valley Nurseries, Inc., in the amount of \$14,870.

Councilwoman Hovsepien pointed out that the cost is \$80 per tree when in fact \$110 was budgeted. The City Manager explained to the Council the current City policy on right of way construction with pedestrian spacing and trees. He said he would be happy to review this policy with the Mayor and Council when they wished.

On motion of Councilman Tyner, duly seconded and passed by unanimous vote of all present, Bid No. 13-83, furnishing and planting shrubs was awarded to Potomac Valley Nurseries Inc., in the amount of \$14,870.

Re: Award of Contract: Bid  
No. 15-83, Storm Water  
Management Facility

The storage facility will be constructed in the stream valley approximately 600 feet west of Research Boulevard. It is to store stormwater in connection with storm water management contributions accepted by the City for developing properties in two major industrial subdivisions, National Capital Research Park, and Washington National Pike Industrial Park.

Of the 41 contractors requesting bid documents, six actually submitted bids as follows:

Corman Construction, Inc.	\$159,199.50
Concrete General, Inc.,	163,835.00
Pleasant Excavating Company, Inc.,	179,824.50
B.F. Asher Company, Inc.	191,660.10
Peak, Inc.	214,988.00
F.E. Gregory & Sons, Inc.	247,518.00
Engineer's Estimate	\$135,000.00
Appropriation	\$122,000.00

The actual low bid exceeds the engineer's estimate and appropriation by a substantial amount. However, this particular project has unique qualities which were not foreseeable at the time the appropriation cost estimate was prepared for the CIP. In addition, the contractors perceive a costly, potential loss of effort if an intense storm should occur during the critical stages of the construction project. After reviewing the project costs, staff believes this factor was not adequately considered and therefore, now the engineer's estimate is low.

The bidder response is good. For many months contractors have been cutting prices. The staff concludes contractor's low bid is a fair price for the project and recommends that the contract be awarded to the Corman Construction Co., Inc.,

in the amount of their bid of \$159,199.50. In order to provide adequate project funding it will be necessary to increase the Storm Water Management appropriation for this project by \$78,000 to \$200,000. This can be accommodated during the mid-year budget adjustments.

Mr. Butchart answered the Mayor and Council's questions on the project and its uniqueness.

On motion of Councilman Tyner, duly seconded and passed by unanimous vote of all present, Bid No. 15-83, was awarded to the low bidder, Corman Construction, Inc., in the amount of \$159,199.50.

Councilman Tyner noted that the storm water management appropriation can be handled at mid-year budget time. He also suggested to the City Manager that it might be time to reexamine the storm water management fees.

Re: Introduction of Ordinance  
To Grant Text Amendment  
T-52-82, Political Signs

On motion of Councilman Duncan, there was introduced upon the table an ordinance granting text amendment application T-52-82, Political Signs, said ordinance to lay over at least one week before final action is taken.

Councilman Tyner asked if the document as it is now written agrees with the Montgomery County and Gaithersburg ordinances. The staff assured the Council that it does. Mayor pro-tem Abrams said that he intends to raise the same questions when the ordinance comes for adoption. At the same time he would like the City Attorney's legal opinion as to the constitutionality of one sign per lawn or one sign per candidate. The City Attorney pointed out that this ordinance deletes the number of signs and goes to square footage as the County and Gaithersburg have done. There may be 100 signs or candidates names provided they do not exceed nine square feet.

Re: Receipt from the Planning  
Commission of the Proposed  
Amendment to the Master Plan  
concerning historic preservation

The Mayor and Council received a proposed amendment to the 1970 Master Plan dealing with historic preservation. This amendment was approved by the Planning Commission on August 11. The Planning Commission is recommending that the Mayor and Council adopt the subject amendment. The Mayor and Council agreed that a work session would be in order and asked that the City Manager find a date that

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would be suitable even if it is to be a Wednesday. The date will be announced at a later time.

Re: Review of Testimony  
re the proposed County  
Ride-On bus routes in  
Rockville

Montgomery County will conduct a forum on Metro bus and Ride-On routes in the City of Rockville on the 28th of September. Testimony is submitted to the Mayor and Council for review. It was the consensus of the Mayor and Council that the testimony is adequate. Mayor pro-tem Abrams will make the presentation on September 28.

Re: Review of testimony on  
FY 84 Community Development  
Block Grant Application to  
be presented to the Montgomery  
County CDBG Advisory Committee

On September 23, 1982, the Montgomery County Community Development Citizens Advisory Committee will conduct a public hearing for the purpose of receiving projects to be funded with Montgomery County FY 1984 CDBG funds. Testimony is submitted for Mayor and Council approval. The testimony will be given by the Chairman of the City's CDBG Committee David Collins.

On motion of Councilwoman Hovsepian, duly seconded and passed by unanimous vote of all present, the Council approved the testimony.

Re: Approval of amendments to  
the by-laws of the Heritage  
Park Cooperative

The Community Development Department reviewed the proposed amendment to the by-laws of the Heritage Park Cooperative and recommend that the Mayor and Council approve them and advise the management company of its approval in accordance with Article 8.

On motion of Councilman Tyner, duly seconded and passed by unanimous vote of all present, the amendments were approved.

Re: Approval of Contract to  
perform structural evaluation  
of the Town Center Parking  
Garage.

In a letter dated April 30, 1982, Peter Stahel of the Winmar/Nordal Group pointed out some observations about the deterioration of the Town Center Garage

made by a structural engineer who had examined the condition of both the Mall and the Garage. Due to a concern about the evidence of some deterioration in various areas of the Garage, staff was requested to seek the best means to examine the structural integrity of the entire Garage and to develop means to arrest and correct any deterioration which had taken place.

Consequently, proposals have been obtained from four (4) structural engineering firms which cover the following items:

- a. A thorough field examination of the Garage to document the existing conditions as determined by an external view and supplemented by limited non-destructive testing.
- b. Submission of a written report on the overall conditions of the Garage structure and recommendations for repair.
- c. Preparation of drawings and specifications for any necessary repairs.
- d. Participation in a pre-bid meeting with contractors and making necessary site visits during repairs.

The following engineering firms, all well qualified, submitted proposals covering the work as outlined above:

1. Allison, McCormac & Nicholaus	\$ 8,500
2. Allen J. Wright Associates	10,110
3. Kidde Consultants, Inc.	13,850
4. Dewberry and Davis	14,590

Staff recommends that an agreement be executed with Allison, McCormac and Nicholaus in an amount not to exceed \$8,500 for the performance of the tasks previously described.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, authorization was given to the staff to hire the firm of Allison, McCormac & Nicholaus in an amount not to exceed \$8,500 for structural investigation of the Town Center Garage.

Re: Adoption of Resolution:  
To Establish an Alternative  
Community Service Commission's  
Volunteer Supervisor's Corps.

#### Resolution No. 27-82

On motion of Councilman Tyner, duly seconded and passed by unanimous vote of all present, Resolution No. 27-82, the full text of which can be found in Resolution Book No. 7 of the Mayor and Council, establishing an Alternative Community Service Commission's Volunteer Supervisor's Corps, was adopted by the Mayor and Council.

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Re: Decision: Request from  
New Rockville Town Center  
Partners for a three-month  
extension to provide additional  
time to present a hotel  
franchise letter of intent

The disposition agreement with New Rockville Town Center Partners states that on or before September 15, 1982, the Developer shall deliver to the City a Letter of Intent from a hotel franchisor acceptable to the City in its sole discretion stating that such franchisor agrees to license or operate the hotel to be constructed on Parcels H-1 and H-2. The agreement also makes reference to Section 8.03 which deals with extension of time or performance in the event the Developer is unable to provide the aforesaid Letter of Intent.

The City Manager has received a letter from Peter Stahel dated September 10, 1982, which formally requests a delay in the submittal of a hotel franchisor Letter of Intent and requests a three month extension to this obligation.

While it would be premature to speculate what chains or what franchisors are most interested in coming to Rockville, it is apparent that the Developer has been diligently pursuing its obligations in this regard and that it appears reasonable that a franchise will be obtained in the near future. Staff, therefore, recommends that the request for an extension of time be granted.

Mayor pro tem Abrams asked the City Manager if he is satisfied that the developer is fulfilling his obligation. The City Manager said he is satisfied and also feels that the stage of discussion by the developer and the hotel chain at this time precludes disclosure.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, Winmar/Nordal was given an extension to December 15 to deliver to the City a letter of intent from a hotel franchise that is acceptable to the City.

Re: Authorization to file an  
amendment to Planned Resi-  
dential Unit Application,  
PRU-14-79 in order to  
preserve the Dawson Farm  
House

The staff on September 3 recommended a planned residential unit application amendment be considered by the Mayor and Council in order to accommodate the Dawson Farm House. Upon further discussion with Peerless Rockville they suggested a wider variety of commercial uses be permitted within the Farm House. For that

reason the staff has submitted an application with wording provided by Peerless and recommends the application contain their language because it increases the probability that the neighborhood would be better informed as to the possible uses for the property.

Councilwoman Hovsepian expressed her concern with this deviation from the original plan. She said she will go forward with this so that the adjacent neighborhood will be informed, but she suggested that this type of amendment only be used when a historic structure is involved and preservation is the goal. An isolated incident like this is only spot zoning and she is extremely bothered by it. Councilman Tyner agreed and said he does not favor it at all. There is no guarantee that it will not happen again and he is not persuaded that it is the proper process. The City Manager said that the language can be refined after Planning Commission review and input. Councilwoman Hovsepian said it is her feeling that sending this application to the Planning Commission encourages Peerless Rockville to proceed with negotiations when in fact they may not come to fruition. Mayor pro tem Abrams said up to this time the effort has been to save valuable historic buildings, does the staff feel this is the appropriate way to do it. The City Manager said yes that is the method that should be used. Mayor pro tem Abrams asked the City Manager if the staff agrees that time is of the essence in the negotiations. The City Manager said he does not know since the City has not been made privy to the negotiations. Councilman Tyner said he has numerous objections to this. Councilman Duncan said the goal and purpose was to save the house and this seems to be the direction to take, one that is suggested by Peerless Rockville and approved by the staff.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, the staff was authorized to file the application and send it to the Planning Commission for further review.

Re: New Business

1. Councilman Duncan noted that the Saturday morning Mayor and Council visiting program will begin on October 9 and continue until the holidays. This is an opportunity for citizens who work during the week to meet with members of the Mayor and Council on an informal basis. Times and the names of councilmembers available will be printed in the City Newsletter.

2. Councilwoman Hovsepian said that on November 1 the Drug Fair in Twinbrook will be closing when its lease expires. The Twinbrook Civic Association called her and expressed alarm over the number of prescription customers who frequent the drug store, many of whom walk. She asked the staff to look into what arrangements are being made for prescriptions after October 5, which is the date the prescription counter closes.

3. Councilman Tyner asked that the City Manager contact Jon Burrell from the Maryland Municipal League for information on the National Salute to the Vietnam veteran in November. He would like that information.

4. Councilwoman Hovsepian asked if there were any foreign language people available in the City to interpret. Bert Drayton said there are some employed by the City and he would make those names available.

5. Mayor pro tem Abrams requested a copy of the City's park policy for Council review. He said the City's charges are much less than the County's and this is causing more institutional use in the park. He would like to know what those implications are to the City's maintenance costs.

Re: Approval of minutes

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, the minutes of Meeting No. 33-82, were approved as written.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, the minutes of Meeting No. 34-82, were approved as amended.

Re: Work Session: Landlord/  
Tenant Legislation

The staff has prepared a report for the Council on landlord/tenant legislation that offers four options. The first would be to adopt the County Landlord/Tenant Act and contract with them for enforcement and related services. The second, establishes a more formal system of dealing with landlord/tenant problems within City government. The third, increase landlord/tenant related services. And fourth maintain the exsisting system. Councilman Duncan thanked the staff for the completeness of the report. He noted for the benefit of those in the audience that this is a part of consumer legislation since it is time the City got more formal protection for the tenants. It was his contention that option one does not solve anything and number four has major weaknesses. He said of # two and three options, he prefers a commission and a more formal set up. And, although the staff has pointed out a cost of \$30,000 it is possible that the license fees

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could be increased to accommodate this cost. Councilman Tyner agreed and said he was delighted to see the report. He likes options two and three and feels they are truly needed. Councilman Duncan pointed out that since the County only handles multi-family dwellings, the City's legislation would be at a higher level. Mayor pro tem Abrams asked if the Board of Appeals could be used for adjudicating complaints. The City Attorney said they have been used in the past for rent increase appeals so there is a precedent. The City Manager said that an ordinance needs to be drafted and then the work load would have to be addressed. Councilwoman Hovsepien asked how complaints are handled now and what department. Mr. Duffy pointed out there are 10 to 15 per week and Community Resources and Licenses and Inspection Departments handle them. There are miscellaneous reasons for the complaints. Mr. Silberstein, present in the audience said there should be landlord/tenant formalization. There certainly should be a legal mechanism to control interface problems. He added that the residential output may not command the totality of the Mayor and Council ordinance. Reverend Kaseman commented favorably on the Council's attempt to formalize the procedures. It was the consensus of the Council that staff proceed with drafting an ordinance that encompasses alternatives two and three and bring it back to the Council for further discussion.

Re: Executive Session

There being no further business to come before the Mayor and Council in general session, the meeting was closed for consultation with legal counsel.

Re: Adjournment

There being no further business to come before the Council in executive session, the meeting was adjourned at 11:50 p.m. to convene again in general session on Monday, October 4, 1982, at 8:00 p.m. or at the call of the Mayor.